REMARKS

Applicants respectfully request further examination and reconsideration in view of the amended claims and the arguments set forth fully below. In the final Office Action mailed December 23, 2008, claims 1-39 have been rejected. In response, the Applicants have amended claims 1, 15 and 18, and have submitted the following remarks. Favorable reconsideration is respectfully requested in view of the amended claims and the remarks set forth fully below.

Rejections Under 35 U.S.C. §101

Claims 1-39 have been rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. The Applicants respectfully disagree with this rejection.

Claims 1-17 have been rejected based on Supreme Court precedent and recent Federal Circuit Decisions, specifically that the claims as drafted must be (1) tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. By the above amendments, the Applicants have amended the independent claim 1 to include additional elements such that the claim is tied to another statutory class, i.e., a particular health care information system having a processor and a storage medium.

Claims 18-39 have been rejected because they are directed to a system which merely comprises data and software, which does not constitute patent eligible classes. Again, by the above amendments, the Applicants have amended the independent claim 18 to further include concrete elements of the health information system, such that the claim falls under a patent eligible class. Accordingly, the Applicants respectfully request the Examiner withdraw her rejection under 35 U.S.C. §101.

Rejections Under 35 U.S.C. §103

Claims 1-39 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,122,664 to Boukobza et al. (hereinafter Boukobza), in view of U.S. Pre-

grant Pub. No. 2003/0023459 to Shipon (hereinafter Shipon). The Applicants respectfully disagree with this rejection.

The Boukobza reference teaches a process for monitoring a plurality of object types of a plurality of nodes.

Within the Office Action, it is stated that the Boukobza reference teaches all of the steps of the independent claims 1 and 18 other than the health care information system, which the Examiner indicates is taught by Shipon. The Examiner cites the Abstract of Boukobza as well as particular columns in Boukobza to illustrate the teachings of the system of the present application. However, the Applicants wish to point out significant structural and organizational differences between the Boukobza reference and the system and method of the present application.

In Boukobza, autonomous agents (SAA) are installed in each node (N1, N2...N_n), and each of these agents installed in each of the nodes of the Boukobza reference are configured to monitor its assigned node, processes the object types or domains in each of these nodes locally, or feeds back the information collected in each of these nodes to a graphical interface of a management node (MN) [Boukobza, Abstract]. What needs to be recognized in this description, and further in the specification of Boukobza, is that the Boukobza reference requires an agent to monitor each node of the system. One single agent cannot monitor a number of different objects in the nodes or a domain in each of the nodes, but rather a single agent is needed for each particular node.

Contrasting the differences in the present application, a healthcare information system includes capabilities to store patient data, as well as storing information of clinical procedures, billing, and medical insurance. In other words, healthcare information systems are capable of receiving and managing information from a number of different "nodes", as likened to the Boukobza reference. However, the system and method of the present application utilizes a single proactive notification agent 148 (Figure 1) to manage the information as described and claimed in the present application. In other words, the system and method of the present application does not require a number of agents corresponding to each of the different "nodes" of the system and method of the present application, i.e., patient

data, clinical procedures, billing, medical insurance. Instead, the agent in the system and method of the present application is configured in the healthcare information system 140, and is able to monitor all "nodes" of this healthcare information system. This is not the case in Boukobza, and as such, this reference requires multiple monitoring agents for each of the nodes in its system. Accordingly, Boukobza does not teach the polling step, nor the monitoring step of the independent claim 1, nor these corresponding elements in the independent claim 18. Furthermore, by amending the final element in the independent claim 1, the Applicant further submits that Boukobza does not teach the notifying step when the value of one of the plurality of counters exceeds one of the thresholds.

Lastly, within the Office Action it is stated that Boukobza does not teach a healthcare information system. The Office Action relies on the Shipon reference to teach this element, but this assessment of the Shipon reference is inaccurate.

The Shipon reference teaches a system and method for audiovisual one on one real time supervision. As described in the specification of the present application, it should be understood that a healthcare information session is not just a one on one communication of information that happens to be medical information between two parties. A healthcare information system manages large amounts of healthcare information for a particular healthcare network, in a number of different areas (as described above, e.g., billing, patient information, treatment). The Examiner cites paragraph 52 to teach a healthcare information system, but the Applicant respectfully submits that this paragraph, and the Shipon reference in general, only teaches "(end) users 16, 18, which may comprises a healthcare professional and patient..." that "...need to share and access information." Therefore, Shipon merely teaches end users that need to share information with one another, and not a true healthcare information system, as described and claimed, that collects, stores, processes and distributes large amounts of hospital and/or clinical information taken over a broad range of categories. Therefore, the Shipon reference, which the Examiner relies upon to teach a healthcare information system, actually teaches merely end user exchange of healthcare information. Accordingly, neither Boukubza, Shipon, nor their combination teach the system and method as described and claimed in the present application.

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Claim 1 is directed to a method for proactively monitoring a healthcare information system, the method comprising configuring a memory device in the healthcare information system, the memory device including a set of executable code; and executing the set of executable code with a processor configured in the healthcare information system, such that when the code is executed, the following steps are performed with a proactive notification agent in the healthcare information system: polling a set of data from the healthcare information system; transforming the set of data into a plurality of counters; monitoring one or more performance parameters of the healthcare information system by recording the values of the parameters by one of the plurality of counters; comparing the value of the counters to thresholds; and notifying a designated representative when the value of one of the plurality of counters exceeds one of the thresholds. As discussed above, neither Boukobza, Shipon, nor their combination teach pulling a set of data from a healthcare information system with a single agent, nor transforming the set of data into a plurality of counters in the HIS. For at least these reasons, the independent claim 1 is allowable over the teachings of Boukobza, Shipon and their combination.

Claim 18 is directed to a system for proactively monitoring a healthcare information system, the system comprising: a memory device configured in the healthcare information system, the memory device including a set of executable code; a processor configured in the healthcare information system configured to execute the code, thereby effectuating the function of the following modules: a notification agent, wherein the agent polls a set of data from the hospital information system; and a plurality of counters, each of which capable of monitoring one of a multiplicity of performance parameters by recording the values of the one parameter, wherein the plurality of counters are produced when the agent transforms the set of data, wherein the agent is further capable of notifying a designated representative when the value of one of said plurality of counters exceeds a threshold. As discussed above with respect to the independent claim 1, netiher Boukobza, Shipon, nor their combination teach a single notification agent configured to pull a set of data from the hospital information system nor a plurality of counters produced when the agent transforms the set of data. Accordingly,
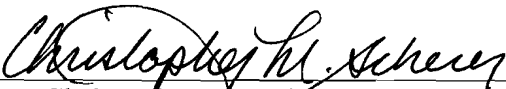
the independent claim 18 is allowable over the teachings of Boukobza, Shipon and their combination.

Claims 2-17 and 19-39 are dependent upon the independent claims 1 and 18. As discussed above, the independent claims 1 and 18 are allowable over the teachings of Boukobza, Shipon, and their combination. Accordingly, claims 2-17 and 19-39 are also allowable as being dependent upon an allowable base claim.

For these reasons, Applicants respectfully submit that all of the claims are now in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, they are encouraged to call the undersigned at 414-271-7590 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,

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